

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ANTHONY CHARLES MCDADE, )

8:07CV317

Plaintiff, )

v. )

**MEMORANDUM  
AND ORDER**

SAN LUIS OBISPO COUNTY )  
SUPERIOR COURT, )

Defendant. )

This matter is before the court on Plaintiff Anthony McDade's motion for leave to proceed in forma pauperis ("IFP"). (Filing No. 2.) As set forth in the Prison Litigation Reform Act, a prisoner cannot:

[B]ring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted.

28 U.S.C. §1915(g).

The following three cases brought by Plaintiff were dismissed as frivolous and because they failed to state a claim upon which relief may be granted:

- *McDade v. Department of Corrections*, No. 8:07CV215 (D. Neb.), dismissed on December 4, 2007;
- *McDade v. Department of Corrections*, No. 8:07CV216 (D. Neb.), dismissed on December 11, 2007; and

- *McDade v. Santa Clara County Superior Court*, No. 8:07CV217 (D. Neb.), dismissed on December 12, 2007.

Accordingly, Plaintiff shall have 30 days, or until January 14, 2008 to show cause why this matter should not be dismissed pursuant to 28 U.S.C. §1915(g). Alternatively, Plaintiff may pay the full \$350.00 filing fee no later than January 14, 2008. In the absence of good cause shown or the payment of the full filing fee, Plaintiff's complaint and this matter will be dismissed without further notice.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have until January 14, 2008 in which to either show cause why this case should not be dismissed pursuant to 28 U.S.C. §1915(g) or pay the full \$350.00 filing fee. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.

2. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: January 14, 2008: Deadline for Plaintiff to show cause or pay full filing fee.

3. The Clerk of the court is directed to terminate the previous pro se case management deadline in this matter.

December 13, 2007.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge